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December 8, 2006

Date

*Linda H. West*  
 Linda Murphy West

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Bernard R. Brodeur et al.  
 Application No. : 09/684,883  
 Filed : October 6, 2000  
 For : PROTEINASE K RESISTANT SURFACE PROTEIN OF  
 NEISSERIA MENINGITIDIS

Examiner : Albert Mark Navarro  
 Art Unit : 1645  
 Docket No. : 484112.417C1  
 Date : December 8, 2006

Fax to 571-273-8300

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PETITION UNDER 37 C.F.R. § 1.181

Director of the U.S. Patent and Trademark Office:

**REQUEST**

Applicants respectfully request that to complete the file for the above-referenced application, now allowed, the attached Declaration under 37 C.F.R. § 1.63 and 37 C.F.R. § 1.67(a) be acknowledged and made of record by the U.S. Patent and Trademark Office (PTO) prior to issuance. Enclosed herewith is payment of the surcharge for late filing of the Oath or Declaration under 37 C.F.R. § 1.63 in accordance with 37 C.F.R. § 1.16(f).

**CROSS-REFERENCE TO RELATED APPLICATIONS AND CURRENT STATUS**

The above-referenced application is a continuation of U.S. Patent Application No. 08/913,362, filed November 13, 1997, now issued as U.S. Patent No. 6,287,547, which is the National Stage of International Application No. PCT/CA96/00157, filed March 15, 1996 under

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35 U.S.C. § 371, which claims the benefit of U.S. Provisional Patent Application No. 60/001,983, filed August 4, 1995, and which is a continuation application of U.S. Patent Application No. 08/406,362, filed March 17, 1995, now abandoned.

The PTO issued a Notice of Allowance on November 15, 2006 for the present application.

#### FACTS PERTINENT TO REQUEST

**RE: U.S. Patent Application No. 08/913,362 (parent application), filed November 13, 1997, now issued as U.S. Patent No. 6,287,547**

To complete the filing requirements for U.S. Patent Application No. 08/913,362 (now issued as U.S. Patent No. 6,287,547), and in response to a Notification of Missing Requirements (dated October 30, 1997), a Declaration under 37 C.F.R. § 1.63 was submitted to the PTO on November 13, 1997. A copy of this Declaration, which was executed by the named inventors Bernard R. Brodeur, Denis Martin, Josee Hamel, and Clement Rioux on October 7, 1997, is enclosed herewith.

In an Office Action dated August 20, 1999, the PTO required that Applicants submit an Oath or Declaration under 37 C.F.R. § 1.67(a) to correct the request for priority. The PTO stated that the request for priority to U.S. Provisional Patent Application No. 60/001,983 must be made under 35 U.S.C. § 119(e) instead of 35 U.S.C. § 120 as indicated in the Declaration filed November 13, 1997. In accordance with this requirement, Applicants submitted a Response with the Declaration complying with 37 C.F.R. § 1.67(a) to the PTO on January 3, 2000. A copy of this Declaration, executed by each of the four named inventors on December 10, 1999, is enclosed. In an Office Action dated June 7, 2000, the PTO acknowledged Applicants' submission of the Response with the Declaration.

**RE: U.S. Patent Application No. 09/684,883, Filed October 6, 2000**

As indicated above, the present continuation application was filed on October 6, 2000. The Official Filing Receipt lists only Bernard R. Brodeur as an inventor. The entry of the single inventor on the Filing Receipt is inconsistent with the records of prior counsel who filed the application, which records are now held by the undersigned representative. These records indicate that the first Declaration filed in the parent application (U.S. Patent Application No. 08/913,362) on November 13, 1997 under 37 C.F.R. § 1.63 was submitted to the PTO on October 6, 2000 with the filing papers for the present application. However, prior counsel's copies are inconsistent with the file history in the PTO.


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The image file wrapper of the present application in PAIR shows that a Declaration was accepted by the PTO on October 6, 2000, and that the PTO relied on this Declaration to list only Bernard R. Brodeur as an inventor on the Filing Receipt. However, the Declaration in PAIR, and as indicated clearly on the document, is a Declaration under C.F.R. § 1.132, executed by Bernard R. Brodeur on September 7, 2000. Also as indicated in the file history in the PTO, the PTO has never issued a Notice to File Missing Parts, requiring Applicants to submit a Declaration that fulfills the requirements under 37 C.F.R. § 1.63 to complete the filing formalities.

Accordingly, Applicants respectfully request that the Declaration fulfilling the requirements under 37 C.F.R. § 1.63 and 37 C.F.R. § 1.67(a) be entered into the record so that the application filing is complete and to ensure that all four named inventors, Bernard R. Brodeur, Denis Martin, Josee Hamel, and Clement Rioux are listed on the patent that issues from the above-identified application.

Applicants believe that a fee is not required for consideration of this Petition; however, the Director is authorized to charge any fee due by way of this Petition to our Deposit Account No. 19-1090.

Respectfully submitted,  
Seed Intellectual Property Law Group PLLC

  
Mae Joanne Rosok  
Registration No. 48,903

Enclosures:

Declaration and Power of Attorney under 37 C.F.R. § 1.63 (copy as submitted to the PTO on November 13, 1997)

Supplemental Declaration and Power of Attorney under 37 C.F.R. § 1.63 and 37 C.F.R. § 1.67(a) (copy as submitted to the PTO on January 3, 2000)

Copy of Supplemental Declaration and Power of Attorney under 37 C.F.R. § 1.63 and 37 C.F.R. § 1.67(a) intended to be entered in the record for U.S. Patent Application 09/684,883

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